

OAL CHECKLIST REGULAR APA RULEMAKING

OAL File No. _____ - _____ - _____

Agency: _____

Reviewer: _____

Due Date: _____

(All citations are to the Government Code, unless otherwise specified. CCR means California Code of Regulations.)

<u>REQUIREMENT</u>	<u>OK?</u>			<u>PROBLEMS</u>
1. FORM 400 (1 CCR 6)				
Is the name of rulemaking agency in AGENCY WITH RULEMAKING AUTHORITY box? (1 CCR 6(b)(10))	Y	N		
Is the subject described in SUBJECT OF REGULATION(S) box? (1 CCR 6(b)(1))	Y	N		
Was the rulemaking action submitted within 1 year of publication date of notice? (11346.4(b))	Y	N		
<i>If from an agency in Department of Consumer Affairs, has the period been extended per Business & Professions Code 313.1(e)?</i>	Y	NA	N	
Are all SECTIONS AFFECTED and TITLES listed? (1 CCR 6(b)(2))	Y	N		
Is the TYPE OF FILING correctly indicated? (1 CCR 6(b)(3))	Y	N		
CERTIFICATE OF COMPLIANCE FILING ONLY:				
Is the box in B.3. on Form 400 marked, or appropriate equivalent certification in the file? (11346.1(e))	Y	NA	N	
<i>NOTE: If Department of Corrections and Rehabilitation (CDCR) file, skip remainder of this block and see next block below.</i>				
For an emergency adoption, repeal or amendment:				
Was certification submitted to OAL within 180 days of effective date of initially adopted emergency regulations? (11346.1(e) and 11349.6(b))	Y	NA	N	
OR				
Is there a special statute for more or less time?	Y	NA	N	
For an emergency readoption:				
<i>If certification is filed during first readoption, was it submitted to OAL within 90 days of the effective date of the first readoption? (11346.1(h) and 11349.6(b))</i>	Y	NA	N	
<i>If certification is filed during second readoption, was it submitted to OAL within 90 days of effective date of second readoption? (11346.1(h) and 11349.6(b))</i>	Y	NA	N	
<i>NOTE: If not submitted within the required time period, it may be necessary to prepare Notice to adopting agency and Order of Reprinting or Deletion so that the regulation as it existed prior to the emergency adoption, repeal or amendment thereupon becomes effective. (11346.1(e)-(g))</i>				

CERTIFICATION OF COMPLIANCE FOR CDCR FILE:		
<i>For an emergency adoption, repeal or amendment:</i>		
Was it submitted to OAL within 160 days of effective date of emergency regulations? (Penal Code sec. 5058.3(a)(1))	Y NA N	
<i>For an emergency readoption:</i>		
<i>If certification is filed during first readoption</i> , was it submitted to OAL within 90 days of effective date of first readoption? (11346.1(h); 11349.6(b) and Penal Code sec. 5058.3(a)(1))	Y NA N	
<i>If certification is filed during second readoption</i> , was it submitted to OAL within 90 days of effective date of second readoption? (11346.1(h); 11349.6(b) and Penal Code sec. 5058.3(a)(1))	Y NA N	
ONLY FOR MODIFIED REGULATIONS AND/OR WHEN MATERIAL IS ADDED TO RULEMAKING FILE:		
Does it identify the beginning and ending dates of all public availability periods? (1 CCR 6(b)(4))	Y NA N	
Is the <i>EFFECTIVE DATE</i> designated? (1 CCR 6(b)(5)), (11343.4(a))	Y N	
Is the effective date specifically prescribed by an underlying statute? (11343.4(b)(1))	Y NA N	
<i>If early effective date is requested</i> , is a written request demonstrating good cause included? (11343.4(b)(3))	Y NA N	
<i>If later effective date prescribed by agency</i> , is this in a written instrument filed with, or as part of, the regulation? (11343.4(b)(2))	Y NA N	
Is a different effective date required for Fish and Game Commission regulation either pursuant to article 1 (commencing with section 200) of chapter 2 of division 1 of the Fish and Game Code or in order to conform to a federal regulation?	Y NA N	
ONLY WHEN NOTICE TO, REVIEW, CONSULTATION, APPROVAL, OR CONCURRENCE BY ANOTHER AGENCY IS REQUIRED BY STATUTE (1 CCR 6 (b)(6)):		
Is designated agency indicated in B.6.?	Y NA N	
Is the name of agency <i>CONTACT PERSON</i> and <i>TELEPHONE NUMBER</i> included? (1 CCR 6(b)(7))	Y N	
Does it include the <i>SIGNATURE OF AGENCY HEAD OR DESIGNEE?</i> <i>Note:</i> Designee must be listed in a signed delegation order in rulemaking file or on file with OAL. (1 CCR 6(b)(8))	Y N	
Is it dated? (1 CCR 6(b)(8)(D))	Y N	
Is the name and title typed? (11343(f), 1 CCR 6(b)(8)(E))	Y N	
2. FINAL REGULATION TEXT		
Is the final regulation text attached to the original and six copies of the Form 400? (11343; 1 CCR 6(a))	Y N	

<p>INCORPORATION BY REFERENCE (1CCR 20)</p> <p>Are any document(s) or form(s) mentioned in the regulations that have a regulatory effect?</p> <p>--If “no,” go to block “REGULATION TEXT” below.</p> <p>--If “yes,” is the agency incorporating them by reference?</p> <p>-- If “no,” all provisions in the document or form must either be: (1) in existing regulation(s) or statute(s); or (2) in the proposed regulation to be printed in the CCR.</p> <p>--If “yes,” are the document(s) or form(s) attached to the original Form 400 for filing with the Secretary of State?</p> <p>Note: Six duplicate copies of document incorporated by reference not required for formal publication reasonably available from commonly known or identified source (1 CCR 20(d)). Also, see block on “Incorporation by Reference” in #13: Final Statement of Reasons.</p> <ul style="list-style-type: none"> • Is the title of the document or form clearly set out in the text? • Is there a statement in the text that specifically identifies which portions of document/form are incorporated? • If document(s) or form(s) that are incorporated are being amended, are the changes clearly indicated by underline/strikeout? • Is there a statement in the proposed text that includes the revision date (or other specific identifier) of the particular version incorporated? <p>Exception: No date required if authorizing statute requires adoption/enforcement of incorporated provision and any subsequent amendments.</p>	<p>Y N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p>
<p>REGULATION TEXT</p> <p>Do(es) the regulation section number(s) fit into the CCR?</p> <p>Are Authority and Reference citations included with the final text? (1 CCR 8(a)(1))</p> <p>Does the underlying text (and Authority and Reference cites) match what is printed in the CCR? (11344)</p> <p>Does the final text show changes to the CCR in underline/italic and strikeout format for additions and deletions; if adoption of new final text, then clearly indicated that all is to be added to CCR? (1 CCR 8(b))</p> <p>Note: For Certification of Compliance filings, the final text will be the same as the express terms (originally proposed text) if there were no post-notice modifications, but will not include the underline/strikeout indicating the emergency changes.</p>	<p>Y N</p> <p>Y N</p> <p>Y NA N</p> <p>Y N</p>

Is the final text a Building Standard? (<i>Definition for Building Standard and exceptions are in Health & Safety Code 18909(a)-(j).</i>) --If "yes:"	Y	NA	N
--Has the Building Standards Commission been contacted? (Health & Safety Code 18942.1)	Y	NA	N
--Has the final text been approved and filed pursuant to Health & Safety Code 18938?	Y	NA	N
RESUBMITTAL FILING ONLY:			
<i>Previously Disapproved Regulations Only:</i>			
Pursuant to 11349.4(b), limit review to: (1) reasons expressly identified in disapproval decision; or (2) issues arising from substantial change to provisions, or intervening statutory change or court orders/decisions.			
<i>If substantive provisions are not significantly changed (11349.4(a)):</i>			
--Was it resubmitted within 120 days of agency's receipt of decision of disapproval? OR	Y	NA	N
--Was an extension granted by Director for good cause?	Y	NA	N
<i>If substantive provisions are significantly changed OR regulation is not resubmitted within 120 days:</i>			
--Has the agency readopted the regulation, complied with Article 5, §11346 et seq. and resubmitted it within one year of the publication date of notice? (11349.4(a))	Y	NA	N
<i>Withdrawn Regulations Only:</i>			
Was it resubmitted within 1 year of publication date of notice? (11346.4(b))	Y	NA	N
<i>Previously Disapproved AND Withdrawn Regulations (11349.4(c)):</i>			
Is a transmittal memo included (1 CCR 84) which:			
--Identifies prior file by date of submission? AND	Y	NA	N
--Specifies parts of prior record incorporated in the resubmittal?	Y	NA	N
Is agency submitting a copy of the prior record, <i>if returned</i> ?	Y	NA	N
3. TABLE OF CONTENTS/AFFIDAVIT OR DECLARATION OF CLOSURE (11347.3(b)(12))			
Is a Table of Contents/Index included in the rulemaking file?	Y		N
Does it identify each item in rulemaking file?	Y		N
Is an Affidavit/Declaration under penalty of perjury included in the rulemaking file?	Y		N
--Does it state that the rulemaking file is closed and complete?	Y		N

--Is the date file closed included?	Y	N
--Is closure date later than the date of all documents in the rulemaking file?	Y	N
4. NOTICE OF PROPOSED RULEMAKING		
Is a NOTICE included in the rulemaking file? (11347.3(b)(2))	Y	N
HEARING: <i>If a hearing is scheduled</i> , is time, place and nature of proceeding included in the Notice? (11346.5(a)(1)) <i>--If “yes,” go to “Written Comment Period” block below.</i> <i>Also, see # 8: Transcripts, Recording, or Minutes.</i> <i>If no hearing is scheduled</i> , is information on opportunity to request one included? (11346.5(a)(17)) <i>--Was a hearing timely requested?</i> <i>--If “no,” go to “Written Comment Period” block below.</i> <i>--If “yes:”</i> <i>--Is request included in rulemaking file?</i> <i>(11346.8(a); 11347.3(b)(6))</i> <i>--Was notice mailed to the extent practicable? (11346.8(a))</i>	Y	NA N
WRITTEN COMMENT PERIOD: Does Notice contain the date written comment period closes? (11346.5(a)(15)) Were there at least 45 days (or other time period specified by statute) between publication date and hearing/close of written comment period? (11346.4(a))	Y	N
AUTHORITY and REFERENCE: Are citations included? (11346.5(a)(2); 1 CCR 14)	Y	N
INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW (11346.5(a)(3)):		
Is the format similar to the Legislative Counsel’s digest?	Y	N
Is it in plain English?	Y	N
Does it include a clear and concise summary of existing laws and regulations, <i>if any</i> , related directly to the proposed rulemaking? (11346.5(a)(3)(A))	Y	NA N
Does it describe the effect of the proposed rulemaking? (11346.5(a)(3)(A))	Y	N
Does it include a policy statement overview explaining the broad objectives of the regulation? (11346.5(a)(3)(C))	Y	N

Does it explain the specific benefits anticipated from the proposed action, including, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government? (11346.5(a)(3)(C))	Y		N
Does it include an evaluation of whether the proposed regulation is inconsistent/incompatible with existing state regulations? (11346.5(a)(3)(D))	Y		N
<i>If there is a substantial difference from existing, comparable federal regulation or statute, are significant differences briefly described?</i> (11346.5(a)(3)(B))	Y	NA	N
-- <i>If “yes,”</i> is a full citation to federal regulation or statute included? (11346.5(a)(3)(B))	Y	NA	N
<i>If document(s) or form(s) are incorporated by reference,</i> are they listed by title and date? (1 CCR 20(c)(3))	Y	NA	N
NOTE: Include in the FSR a demonstration of the need to print the incorporated by reference document(s)/form(s) in the CCR. (1 CCR 20(c)(1))			
MANDATED BY FEDERAL LAW OR REGULATIONS: <i>If adopting or amending regulations on this basis that are identical to previously adopted or amended federal regulation, is a statement included to that effect, together with a citation to where an explanation of the provisions of the regulation can be found?</i> (11346.2(c) and 11346.9) -- <i>If “yes,”</i> this is sufficient to satisfy the ISR requirements of 11346.2(b) and the FSR requirements of 11346.9. (Review of # 7: ISR and # 13: FSR is not necessary.)	Y	NA	N
OTHER STATUTORY REQUIREMENTS: Are there any requirements identified in the Notice that are specific to the agency or type of regulation? (11346.5(a)(4))	Y	NA	N
LOCAL MANDATE (11346.5(a)(5)): Is a determination (policy or expenditure) included as to whether a mandate is imposed on local agency or school district that requires reimbursement pursuant to Section 17500 et seq.? --Is a mandate imposed? • <i>If “yes,”</i> is reimbursement required pursuant to Section 17500 et seq.? <i>Note: If regulation results in reimbursable cost to local agency /school district, OAL must disapprove unless information specified in 11349.1(d)(3) on source of funds is included in rulemaking file. See Part 10: Form 399 Fiscal Impact).</i>	Y Y Y	 NA	N N N

<p>FISCAL IMPACT (11346.5(a)(6)): Are the following estimates prepared in accordance with DOF instruction (SAM 6601-6616) included:</p> <p>--Cost to any local agency or school district requiring reimbursement pursuant to section 17500 et seq.?</p> <p>--Costs or savings to any state agency?</p> <p>--Other non-discretionary cost or savings imposed upon local agencies?</p> <p>--Costs or savings in federal funding to the state?</p>	<p>Y N</p> <p>Y N</p> <p>Y N</p> <p>Y N</p>
<p>HOUSING COSTS (11346.5(a)(12)): <i>If agency makes initial determination of significant effect on housing costs, is a statement of that effect included?</i></p>	<p>Y NA N</p>
<p>SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (11346.3(a); 11346.5(a)(7)): <i>If agency makes initial determination that proposal may have such an impact, does the determination:</i></p> <p>--Identify the types of businesses affected?</p> <p>--Describe projected compliance requirements?</p> <p>--Solicit proposed alternatives using 11346.5(a)(7)(C) boilerplate language?</p> <p><i>If agency makes initial determination that proposal will not have such an impact, does notice make a declaration to that effect? (11346.5(a)(8))</i> <i>If "yes," check ISR for the following requirements to support this determination: Facts, evidence, documents, testimony or other evidence relied upon. (11346.2(b)(6))</i></p>	<p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p>
<p>STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA) (11346.5(a)(10)) Is a statement of the results of the EIA included?</p> <p>Does it specify whether and to what extent the proposed regulation will affect:</p> <ul style="list-style-type: none"> • Creation of jobs within California • Elimination of jobs within California • Creation of new businesses within California • Elimination of existing businesses within California • Expansion of businesses currently doing business within the state • Benefits of the regulation to the health and welfare of California residents, worker safety, and the states environment 	<p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p>

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS (11346.5(a)(9)):			
Is a description included of all cost impacts known to the agency that a representative person or business would necessarily incur in reasonable compliance with the proposed action?	Y	NA	N
<i>If no cost impacts are known to the agency</i> does the notice state: “The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action?”	Y	NA	N
BUSINESS REPORT (11346.5(a)(11); 11346.3(d)):			
Does the regulation require a report to be made?	Y		N
Does the report requirement apply to business?	Y	NA	N
--If “yes”, is there a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation applies to business?	Y	NA	N
SMALL BUSINESS (1 CCR 4(a) and (b)):			
Is a statement included that proposed action does/does not affect small businesses? (1 CCR 4(a))	Y		N
--Is a brief explanation included of reason for “does not affect” determination? (1 CCR 4(b))	Y	NA	N
ALTERNATIVES INFORMATION (11346.5(a)(13)):			
Does the notice include a statement similar to the following: [Name of rulemaking agency] must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency:	Y		N
--Would be more effective in carrying out the purpose for which the action is proposed;	Y		N
-- Would be as effective and less burdensome to affected private persons than the proposed action; or	Y		N
--Would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.	Y		N
NOTE: Any alternatives and reasons for rejecting them must be described in the Initial Statement of Reasons. The determination referred to above regarding each of the bullets must be in the Final Statement of Reasons.			
CONTACT PERSON (11346.5(a)(14)):			
Is the name and telephone number of agency representative and designated backup contact person listed?	Y		N

AVAILABILITY STATEMENTS (11346.5(a)(16)): Are the following statements included:			
--Availability of express terms?		Y	N
--Availability of initial statement of reasons?		Y	N
--Availability of information upon which proposed rulemaking is based? (11346.5(b); 11346.2(a))		Y	N
--Availability of substantial changes to original proposal for at least 15 days prior to agency adoption/repeal/amendment of resulting regulation? (11346.5(a)(18))		Y	N
FINAL STATEMENT OF REASONS (11346.5(a)(19)): Is a statement included explaining how to get a copy of the final statement of reasons?		Y	N
INTERNET ACCESS (11346.4(a)(6); 11346.5(a)(20)): Is a statement included explaining how materials published or distributed on the agency's Internet website, <i>if the agency has one</i> , can be accessed?		Y	N
5. ORIGINALLY PROPOSED TEXT (Express Terms)			
Is the originally proposed text included in the rulemaking file? (11347.3(b)(10))		Y	N
Does the underlying text match existing regulation text printed in the CCR? (11344; 11346.2 (a)(3))		Y	NA N
Are all proposed changes to the CCR, including Authority and Reference citations, in underline/italic, strikeout format? (11346.2 (a)(2) and (3))		Y	N
6. MAILING STATEMENT FOR 45-DAY NOTICE			
Is the mailing statement included in rulemaking file? (11346.4(a)(1)-(4); 1 CCR 86)		Y	N
Is it adequate? (11346.4(a)(1)-(4); 1 CCR 86)		Y	N
7. INITIAL STATEMENT OF REASONS (ISR)			
Is ISR included in the rulemaking file? (11347.3(b)(2))		Y	N
Does it state the problem the agency intends to address? (11346.2(b)(1))		Y	N
Does it include a statement of the specific purpose of each adoption, amendment, or repeal? (11346.2(b)(1))		Y	N
Does it state the rationale for the agency's determination that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose(s) of the statute(s) or other provision(s) of law that the action is implementing, interpreting or making specific AND to address the problem for which it is proposed? (11346.2(b)(1)) (11349(a))		Y	N
Is each regulation provision covered? (1 CCR 10(b))		Y	N

Does it identify the Economic Impact Analysis (EIA) prepared pursuant to 11346.3(b) as a report relied upon by the agency in proposing the proposed regulatory action OR is the EIA included in the text of or otherwise identified in the ISR?	Y		N
Does it identify every other technical, theoretical or empirical study, report, or similar document relied upon, <i>if any</i> , by the agency in proposing the proposed regulatory action? (11346.2(b)(3))	Y	NA	N
Does it state the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute? These may include non-monetary benefits such as protection of public health and safety, worker safety, or the environment, prevention of discrimination, promotion of fairness or social equity, or providing for openness and transparency in business and government, etc. (11346.2(b)(1))	Y		N
Does it describe reasonable alternatives to the regulatory action proposed by the agency, <i>if any</i> , including alternatives that would lessen any adverse impact on small business? (11346.2(b)(5)(B))	Y	NA	N
-- <i>If the agency rejects these alternatives</i> , does it explain the agency's reasons for rejecting them, including reasons for rejecting alternatives that would lessen any adverse impact on small business?	Y	NA	N
Does it describe alternatives, <i>if any</i> , proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that achieves the purposes of the statute or other law being implemented and explain a reason for rejecting each such alternative? (An agency may state that no such alternative has been proposed.) (11346.2(b)(5)(A))	Y	NA	N
If the proposed regulatory action mandates the use of specific technologies or equipment, or prescribes specific actions or procedures, then the agency shall consider a performance standard as an alternative, AND explain why the agency believes these mandates or prescriptive standards are required. If this applies, does the agency indicate consideration of a performance standard and explain reason for using a prescriptive standard? (11340.1(a); (11346.2(b)(5))	Y	NA	N
Does it include facts, evidence, documents, testimony, or other evidence relied upon to support initial determination in the notice that the regulation WILL NOT have a significant adverse economic impact on business? (11346.2(b)(6))	Y		N
<i>If agency under Cal-EPA, Natural Resources Agency or Fire Marshal (11346.2(b)(7)):</i>			
--Does it describe efforts to avoid unnecessary duplication or conflict with the Code of Federal Regulations (CFR)?	Y	NA	N
--Does it include a finding that differing regulations are authorized by law, or that cost is justified by benefit?	Y	NA	N

8. TRANSCRIPT, RECORDING, OR MINUTES			
<i>If public hearing is held:</i>			
Is transcript/recording/minutes included in rulemaking file? (11347.3(b)(8))	Y	NA	N
--If transcript or recording, is it verbatim? (1 CCR 90(b))	Y	NA	N
--If minutes, are they sufficiently detailed to indicate objections and recommendations made? (1 CCR 90(c))	Y	NA	N
<i>If a board or commission meeting is required to adopt the regulation:</i>			
Does the transcript/recording/minutes demonstrate that board or commission with rulemaking authority adopted the regulation(s) after complying with public availability requirements? (11346.8, 11347.3(b)(8); 1 CCR 90(a))	Y	NA	N
Does final text (including any substantial changes) match text expressly adopted by board or commission? (11346.8(a) and (c))	Y	NA	N
<i>If scheduled public hearing continued or postponed, was there adequate notice of resumption? (11346.8(b))</i>	Y	NA	N
9. POST-NOTICE MODIFICATIONS			
REGULATION TEXT:			
Are there differences between originally noticed text (express terms) and final text submitted to OAL? (11346.8(c))	Y		N
--If “no,” go to “Availability of Relied Upon Material” block below in this part			
--If “yes,” are all changes <i>nonsubstantial</i> (1 CCR 40) or <i>solely grammatical</i> ? (11346.8(c))	Y	NA	N
<ul style="list-style-type: none"> • If “no,” is modified text of regulation included in rulemaking file? (11347.3(a)(10)) • If “yes,” go to “Availability of Relied Upon Material” block below in this part. 	Y	NA	N
Does the modified text show the full text of regulation as originally proposed with proposed changes clearly indicated? (1 CCR 44; 1 CCR 46)	Y	NA	N
Are all <i>substantial</i> changes (1 CCR 40) <i>sufficiently related</i> to the original proposal? (11346.8(c); 1 CCR 42)	Y	NA	N
--If “yes,” notice and 15-day comment period required on changes that <i>are sufficiently related</i> . (11346.8(c))			
--If “no,” notice and new 45-day comment period required on changes that <i>are not sufficiently related</i> . (11346.4; 11346.8(c))			
NOTICE OF 15-DAY COMMENT PERIOD(S):			
Is the 15-day Notice included in the rulemaking file? (11347.3(a)(2))	Y	NA	N
Does Notice state the period within which comments will be received? (1 CCR 44(a))	Y	NA	N
Was it mailed with full text of regulation, with proposed changes clearly indicated? (1 CCR 44(a))	Y	NA	N

<i>If newly incorporated document or form is included</i> , is it identified by title and date of publication or issuance? (1 CCR 20(c)(3))	Y	NA	N
SECTION 44 CONFIRMING STATEMENT (1 CCR 44(b), (c) and (d) and 11347.3(b)(9)):			
Is the confirming statement included in the rulemaking file?	Y	NA	N
Does it make the following statements:			
--That agency complied with the requirements of 1 CCR 44?	Y	NA	N
--The beginning and ending dates for the availability period? (1 CCR 44 (b) and (d))	Y	NA	N
--The date that notice and proposed text were mailed? (1 CCR 44(b))	Y	NA	N
<i>If no persons to mail to</i> , is a statement included to confirm this? (1 CCR 44(c))	Y	NA	N
AVAILABILITY OF RELIED UPON MATERIAL			
Was any relied upon material added to rulemaking file after publication of notice (and not identified in the ISR or otherwise made available)?	Y	NA	N
--If “no,” go to # 10: <i>Form 399 (Fiscal Impact)</i> .			
--If “yes,” was material made available for at least 15 days as required by 11347.1?	Y	NA	N
--If “no,” OAL must disapprove or agency withdraws file.			
--If “yes,” is Notice included in rulemaking file?	Y	NA	N
• Does Notice identify added document(s) and location where they are available? (11347.1(b))	Y	NA	N
Is a statement confirming compliance with notice requirements, including the date the notice was mailed, in the record? (11347.1(e))	Y	NA	N
<i>If no persons to mail to</i> , is a statement included to confirm this? (11347.1(f))	Y	NA	N
10. FORM 399 (FISCAL IMPACT)			
Is the Fiscal Impact portion of Form 399 included in the rulemaking file? (11346.5 (a)(6))	Y		N
Is the Fiscal Impact portion of Form 399 properly filled out and signed by the Agency Secretary or, if rulemaking agency is not under an Agency Secretary, by the highest ranking official in the agency? (SAM 6614)	Y		N
Is DOF concurrence required? (SAM 6615)	Y		N
--If “yes,” is DOF signature included?	Y	NA	N
Are computations leading to dollar estimate, <i>if any</i> , and supporting data included in the rulemaking file? (11349.1(d)(1); SAM 6607)	Y	NA	N
Has DOF been notified if the rulemaking file was returned to the agency pursuant to 11349.1(d) for lack of proper estimates? (11349.1(e))	Y	NA	N

11. OTHER MATERIAL IN RULEMAKING FILE

Is a Petition, <i>if any</i> , proposing regulatory change included? (11340.7; 11347.3(b)(1))	Y	NA	N
Does the rulemaking file contain public comments and other information received:			
--During 45 day comment period?	Y	NA	N
--During 15 day comment period(s), <i>if any</i> ?	Y	NA	N
--In connection with proposed rulemaking at other times? (11347.3(b)(6))	Y	NA	N
Is all material relied upon by the agency included in the rulemaking file? (11347.3(b)(7))	Y	NA	N
Is any other information, statement, report or data which the agency is required to consider or prepare included in the rulemaking file? (11347.3(b)(11))	Y	NA	N
<i>If proposed regulations are any of the following:</i>			
--All regulations proposed by the Department of Rehabilitation;			
--Disability access compliance regulations that must be submitted to the California Building Standards Commission;			
--Special education regulations proposed by the State Department of Education; or			
--Medi-Cal regulations proposed by the State Department of Health Care Services—			
then, upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, the agency shall have provided a narrative description of the additions to, and deletions from, the California Code of Regulations or other publication and any portion of the surrounding language necessary to understand the change in a manner that allows for accurate translation by reading software used by the visually impaired. (11346.6(b))			
Has any such request been made? (11347.3(b)(11))			
<i>If “yes:”</i> Does the record include a copy of the request?	Y	NA	N
Does the agency indicate the date that the information was provided?	Y	NA	N
Did the agency provide at least 45 days from the date the information was provided during which the requester could submit public comment?	Y	NA	N
<i>If any such comments were submitted</i> , does the rulemaking file contain these public comments?	Y	NA	N

NOTE: Notice and 45 day comment period is required for such a request which can be made at any time prior to filing the rulemaking with the Secretary of State.) (11346.6(d) and (e))	Y	NA	N
<i>If agency is a board, commission or committee within the Department of Consumer Affairs (DCA), has the agency included a certification that it has complied with Bus. & Prof. Code 313.1 and either DCA director has approved the regulation or the agency board/commission/committee has overridden director's disapproval by unanimous vote? (Bus. & Prof. Code 313.1(e)(3))</i>	Y	NA	N
12. UPDATED INFORMATIVE DIGEST (UID)			
Is UID included in the rulemaking file? (11347.3(b)(2))	Y		N
Does it include a clear and concise summary of immediately preceding laws and regulations, <i>if any</i> , directly related to the proposed rulemaking action and its effect? (11346.9(b))	Y	NA	N
<i>If summary is necessary</i> , is the format is similar to the Legislative Counsel Digest? (11346.9(b))	Y	NA	N
<i>If the applicable laws have not changed and the agency has made no changes to the regulations that impact on its effect, there is no need to reiterate the information in the Informative Digest of the Notice. Instead, OAL suggests including a statement such as: "There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action."</i>			
13. FINAL STATEMENT OF REASONS (FSR)			
Is FSR included in the rulemaking file? (11346.9(a))	Y		N
Does FSR update information in ISR? (11346.9(a)(1))	Y		N
Does the update identify any material relied upon that was not available for public review prior to close of public comment period(s)?	Y	NA	N
-- <i>If "yes,"</i> was new 15-day notice and comment period provided? (11346.9(a)(1) and 11347.1) (See " <i>Availability of Relied Upon Material</i> " block above in # 9)	Y	NA	N
Does FSR include a determination whether the regulations impose a mandate upon local agencies/school districts? (11346.9(a)(2))	Y		N
--Is a mandate imposed?	Y		N
-- <i>If "yes,"</i> is a statement included whether it is reimbursable under 17500-17630?	Y	NA	N
-- <i>If "not reimbursable,"</i> is the reason why included?	Y	NA	N

Does it include a determination, with supporting evidence, that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency: (11346.9(a)(4))			
--Would be more effective in carrying out the purpose for which the action is proposed;	Y		N
-- Would be as effective and less burdensome to affected private persons than the proposed action; or	Y		N
--Would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.	Y		N
--If the agency rejected proposed alternatives that would lessen any adverse economic impact on small business, does the agency explain its reasons for rejecting them? (11346.9(a)(5))	Y	NA	N
--If such explanation is necessary, does the agency include supporting information regarding the benefits of the proposed action (specific benefits anticipated by the proposed adoption, amendment or repeal, including, to the extent applicable, nonmonetary benefits such as protection of the public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government). (11346.9(a)(5))	Y	NA	N
INCORPORATION BY REFERENCE			
Was/were the document(s) or form(s) available upon request from the agency, or reasonably available from a commonly known or specified source? (1 CCR 20(c)(2))	Y	NA	N
--If “no,” does the regulation specify how a copy may be obtained? (1 CCR 20(c)(2))	Y	NA	N
Does FSR demonstrate that publication of incorporated document in full in CCR would be cumbersome, unduly expensive, or otherwise impractical? (1 CCR 20(c)(1))	Y	NA	N
SUMMARY AND RESPONSE TO COMMENTS:			
Is a SUMMARY of each comment received during a comment period specifically directed at the proposed regulation or at procedure followed by the agency included? (11346.9(a)(3))	Y	NA	N
Is a RESPONSE explaining how proposal was amended to accommodate comment OR explaining a reason for rejecting comment included? (11346.9(a)(3))	Y	NA	N
--Are reasons included for rejecting proposed alternatives to lessen impact on small business, if any? (11346.9(a)(5))	Y	NA	N

14. SUBSTANTIVE REQUIREMENTS			
AUTHORITY (11349(b); 11342.1; 11342.2; 1 CCR 14): Are citations specific, accurate and complete?		Y	N
Is there express or implied statutory or constitutional authority to adopt, amend or repeal the proposed regulation?		Y	N
Are there any public comments challenging the agency's "authority"? (1 CCR 14(c)(1)(B))		Y	N
Does the regulation alter, amend, or enlarge a statute? (1 CCR 14(c))		Y	N
Does a statute provide specific authority to impose fine or imprisonment, or both? (11145)		Y	NA N
<i>If intended to promote fire and panic safety or provide fire protection and prevention, including fire suppression systems, equipment or alarms, has it been approved by State Fire Marshal? (11359(a))</i>		Y	NA N
<i>--If "no," is the regulation expressly required to be at least as effective as federal standards pursuant to 11359(b)?</i>		Y	NA N
REFERENCE (11349(e); 1 CCR 14(b)): Are citations specific, accurate and complete?		Y	N
CONSISTENCY (11342.2, 11349(d)): Is the regulation consistent with statutes enforced or administered by submitting agency?		Y	N
Do the regulations conflict with the Public Records Act? (Government Code 6250-6270)		Y	NA N
Do the regulations conflict with the Information Practices Act? (Civil Code 1798)		Y	NA N
Are the regulations consistent with other applicable statutes or regulations?		Y	NA N
CLARITY (11349(c); 1 CCR 16): Does the regulation use language correctly, including spelling, grammar and punctuation?		Y	N
Does the regulation use citation styles that clearly identify published material?		Y	N
Does the regulation present information that is readily understandable by those directly affected?		Y	N
Can the regulation on its face be reasonably and logically interpreted to have more than one meaning?		Y	N

Does the language of the regulation conflict with the agency's description of the effect of the regulation?	Y		N
Does the regulation use terms that do not have meaning generally familiar to those directly affected (and the terms aren't defined in the regulation or governing statute)?	Y		N
<p>NONDUPLICATION (11349(f), 11346.2(b)(5); 1 CCR 12):</p> <p>Does the regulation repeat or rephrase in whole or in part a state or federal statute or regulation?</p> <p>--If “yes,” do any of these exceptions apply: Exceptions (1 CCR 12 (b)):</p> <p>(1) Necessary to satisfy clarity standard --Is justification as specified in 1 CCR 12 (b)(1) included?</p> <p>(2) Federally mandated regulation (1 CCR 12 (b)(2)) --Does agency meet requirements of 11346.9(c)?</p> <p>(3) Mandated or authorized by provision of law --Statement identifying duplicated or overlapped statute or regulation and provision of law in citation style which permits or mandates duplication or overlap is included? (1 CCR 12 (b)(3)(A) and (B))</p>	Y		N
<p>NECESSITY (11349(a); 1 CCR 10):</p> <p>Does the record demonstrate by substantial evidence that each provision is reasonably necessary to effectuate the purpose of the provision of law it implements, interprets, or makes specific? See #7: <i>Initial Statement of Reasons</i>.</p> <p><i>If submitted by CalEPA or a rulemaking entity within CalEPA, are scientific portions of the regulation peer reviewed? (Health & Safety Code 57004)</i></p>	Y		N
	Y	NA	N